

A short Account of the Procefs and Trial at the Instance of His Majesty's Advocat, by special Order of His Majesty's Privy Council, against *Thomas Frazer* of *Beaufort*, and Captain *Simeon Frazer* his Son, and their Complices, for the Crimes of Treason, and other Crimes contained in their Inditement.

**L**ord *Lovat* having deceased in the year 1696, leaving four Daughters under age, in the keeping and custody of their Mother; and the Right of Succession, according to the Tenor of the Lord *Lovat*'s Infeftments, as well as by his own express Deeds, devolving upon the eldest Daughter: Nevertheless *Thomas Frazer* of *Beaufort*, and Captain *Simeon Frazer* his Son, pretending, That they were the apparent Heirs Male of the Family, and alledging (without any ground) that the Right of Succession of the Estate of *Lovat* should only appertain to them; endeavour to Possess those of the Name, and the Vassals and dependers on the Family, (who make a numerous Clan in the *Highland* parts) That the young Lady the Heiress was to be disposed upon by her Mother and Friends, to a Stranger, and that thereby their *Clan* and *Chiftainrie* (Names of great Value, with that sort of people) were to be broken, and they brought under Subjection to a Foreign Lord and Master.

Whereupon the said *Thomas Frazer*, with his Son *Simeon Frazer*, (tho Persons of no Estate, and who for a long time had lived precariously by the allowance and tollerance of the Lord *Lovat*, upon a piece of Land of his called *Beaufort*) do enter into a Combination and Conspiracy with those of the Name of *Frazer*, whom they could induce to follow them; and first, holding secret Councils, and signing Bonds and Leagues amongst themselves, and then making open Conventions and Rendezvous in Arms, they resolve about the Month of September, 1697, to invade and possess the Estate and Lordship of *Lovat* (to which they knew perfectly that they had no legal Right or Title) by plain Force and Violence. And thus proceeding from one Step and Degree of Violence to another, they break out into a treasonable rising in Arms, and open and manifest Rebellion against his Majesty. And that attended with the Aggravations of such insolent and horrid Crimes, as have scarce been heard of in any Civil Nation or Kingdom.

But because the exact account of these their Crimes and Treasons, as also of the Method taken by the Lords of his Majesty's Privy Council to reduce them to a better Mind, and prevent the foresaid Extremities, will best appear from the two libels or Inditements, which upon this occasion are raised against them; the just and full doubles thereof were and are as follows.

The



A short Account of the Procefs and Trial at the Instance of His Majesty's Advocat, by special Order of His Majesty's Privy Council, against *Thomas Frazer* of *Beaufort*, and Captain *Simeon Frazer* his Son, and their Complices, for the Crimes of Treason, and other Crimes contained in their Inditement.

**L**ord *Lowat* having deceased in the year 1696, leaving four Daughters under age, in the keeping and custody of their Mother; and the Right of Succession, according to the Tenor of the Lord *Lowat*'s Inseiments, as well as by his own express Deeds, devolving upon the eldest Daughter: Nevertheless *Thomas Frazer* of *Beaufort*, and Captain *Simeon Frazer* his Son, pretending, That they were the apparent Heirs Male of the Family, and alledging (without any ground) that the Right of Succession of the Estate of *Lowat* should only appertain to them; endeavour to Possess those of the Name, and the Vassals and dependers on the Family, (who make a numerous Clan in the *Highland* parts) That the young Lady the Heiress was to be disposed upon by her Mother and Friends, to a Stranger, and that thereby their Clan and *Chistainrie* (Names of great Value, with that sort of people) were to be broken, and they brought under Subjection to a Foreign Lord and Master.

Whereupon the said *Thomas Frazer*, with his Son *Simeon Frazer*, (two Persons of no Estate, and who for a long time had lived precariously by the allowance and tolerance of the Lord *Lowat*, upon a piece of Land of his called *Beaufort*) do enter into a Combination and Conspiracy with those of the Name of *Frazer*, whom they could induce to follow them; and first, holding secret Councils, and signing Bonds and Leagues amongst themselves, and then making open Conventions and Rendezvous in Arms, they resolve about the Month of *September*, 1697, to invade and possess the Estate and Lordship of *Lowat* (to which they knew perfectly that they had no legal Right or Title) by plain Force and Violence. And thus proceeding from one Step and Degree of Violence to another, they break out into a treasonable rising in Arms, and open and manifest Rebellion against his Majesty. And that attended with the Aggravations of such insolent and horrid Crimes, as have scarce been heard of in any Civil Nation or Kingdom.

But because the exact account of these their Crimes and Treasons, as also of the Method taken by the Lords of his Majesty's Privy Council to reduce them to a better Mind, and prevent the foresaid Extremitities, will best appear from the two libels or Inditements, which upon that occasion are raised against them; the just and full doubles thereof were and are as follows.

The



*The just double of the first Libel or Inditement exhibit and insisted upon, by his Majesty's Advocat, before the Lords of her Majesties Justiciary at Edinburgh, the 5th. day of September 1698, Against Thomas Frazer of Beaufort, and Captain Simon Frazer his Son, and their Accomplices afternamed.*

**T**Hat where, by the Laws of this, and all other well governed Nations, the Crimes of Treason and Rebellion; As likewise of unlawful Leagues and Combinations, and the convocating and convening of Subjects in Arms, without the warrant of Authority, and the occupying, possessing, stuffing, and fortifying of Houses and Forts, with armed Men, and other Provisions: As also, the way-laying, Seizing, Apprehending, and making free Subjects Prisoners, and detaining them *in privato carcere*, or in Bondage and Captivity, and treating them with Insolence and Cruelty: As likewise, the ravishing or offering to Ravish Women by Force and Violence, and without Respect to the Quality or Condition of the Persons injured, or even to common Humanity; and the persisting in the said Violence, Rapt, and Ravishing, by carrying the Ravished about from Place to Place, at the pleasure of the Ravisher, are punishable with Confiscation of Life, Lands, and Goods. Likeas, by the Act of Parliament King James 1st. Par. 1st. Cap. 3d. It is statute, That no man openly Rebel against us, under the pain of Forfeiture of Life and Goods. And by the Act of Parliament James the 2d. Parl. 6. Cap. 24. It is statute, That who commits Treason against Our Person and Majesty, rises in feir of War against Us, Resets and supplies such as have committed Treason, or stuffs their Houses, and holds them against us, or stuffs Houses of their own, in furtherance of Rebels, shall be punished as Traitors. And by the Act of Parliament Queen Mary, Par. 9. Cap. 75. It is statute, That none attempt to do, or rise any Bands of Men of War, on Horse or Foot, with Culverings, Pistols, Picks, Spears, or other Munition belical, without special License in writ of our Sovereign Lady, and her Successors, under the pain of Death, to be execute upon the raisers of the said Bands. As also upon them that raises and convenes in the Bands. And by the Act, James 5th. Parl. 8th. Cap. 131. It is statute, That none of our Subjects presume to convocat, convene, or assemble, for holding of Councils to treat, consult, or determin in any matter of State, Civil or Ecclesiastick, except in the ordinary Judgement, without our special Command, or expresse Licence, under the pain made against such as unlawfully convocats our Leidges. And by another Act James 6th. Parl. 10th. Chap. 12. It is statute, That no Leagues or Bands be made against our Subjects, of any Degree, without Privy and consent, under the pain to be holden and execute as movers of Sedition, to the breach of the peace: Which two last Acts are ratified by Charles 2d. Parl. 1st. Cap. 4th. And by the Act Charles 2d. Par. 1. Cap. 5th. It is declared, That it is, and shall be high Treason to the Subjects of this Kingdom. or any number of them, more or less, upon any Ground or pretext whatsoever, to rise and continue in Arms, to maintain any Forts, Strength, or Garisons, or to make any Treaties or leagues with Forreigners, or amongst themselves, without our special Authority and Approbation, first had, and obtained thereto. And by the Act Charles 2d. Par. 1st. Session 2d. cap. 2d. It is statute and declared, That to plot, contrive, or intend to levie War, or to take up Arms against us, or any commissioner by us, is punishable as high Treason. Likeas, by the Act Charles 2d. parl. 2d. Cap. 11th. It is statute, That in time coming, in all cases of Treasonable rising in Arms, and open, and manifest Rebellion against us and our Authority, our Advocat for the time, may and ought to insist against, and prosecute





rute such persons as he shall be ordered by us, or our privy Council to Pursue: And if they be Cited and do not compare, the Judges ( notwithstanding of their absence ) may and ought to proceed to consider, and give Interlocutor upon the Libel; and if it be found Relevant, admit the same to the knowledge of an Assize, and upon their Verdict, find the same to be proven, The Doom and Sentence of Forfeiture ought to proceed, and be given in the same manner, as if the persons accused had compeared, and were present. Which raising Convocating and Conveening in Arms without or against our Authority, which the other Crimes fore said are highly aggravated, and the Treason and Rebellion yet more open and manifest, while the persons guilty presume to persist and continue therein, after having been charged in our Name, by our Officers, or by a Herald thereto Warranted, to lay down their Arms, and render their persons to bide the Law; under the pain of Rebellion- As also, by the 34th Act Parliament 1st. Sess. 1st. Ch. 2d. It is statute, That the celebrater of Clandestine Marriages be banished the Kingdom, never to return under the pain of Death. **N E V E R- T H E L E S S**, It is of verity, That Captain *Simon Fraser*, Eldest lawfull Son to *Thomas Fraser of Beaufort*, *William Fraser of Foger*, *Hugh Fraser in Kinnonavie*, *William Fraser in Dulleraig*, *William Fraser of Erechit*, *Alexander Fraser of Kilduthill* younger, *Hugh Fraser*, alias *Huiston Oig in Leadcluse*, *Alexander Fraser in Rathven*, *John Fraser* his Brother, *Alexander Fraser* Son to *Farratin*, *Alexander Fraser* Son to *Meggivie*, *Tam Fraser* Brother to *Littlegarth*, *Thomas Huiston* Son to the Minister of *Stratherick*, *Aeneas Macbaine* Brother to *Drummond Macbaine*, *Hugh Fraser* Son to *Struie*, *Hugh Fraser* younger of *Boch rubine*, *John Fraser* Brother to *Old Kilduthill*, Major *Thomas Fraser* Elder of *Struie*, *Hugh Fraser* Brother to *Srechit*, and *John Fraser* younger of *Meggivie*, Shaking off all fear of God and regard to our Laws and Authority, are guilty, airt and part of the Crimes above and under mentioned. In so far as, The said Captain *Simon Fraser* having on one or other of the days of the Month of *September* last sent to the fore saids persons to come and meet him at *Maniack*, a House belonging to *Fraser of Strichen*, they agreed and came to the fore said House, belonging to *Strichen*, and there then being several other Gentlemen of the Name of *Fraser* and others; They unlawfully leagued and combined together for to rise in Arms and prosecute their mischievous Practices. Likeas, for their better effectuating thereof, Intimation having been made by one or other of the Persons above-mentioned to the Men of *Stratherick*, ( which is a part of the Lord *Lovats* Estate and Interest, ) They within three or four days after the meeting at *Strichens* House, did rendezvous about two hundred Men in Arms at *Esseck*. And when the Men of *Stratherick*, did come to the said Rendezvous at *Esseck*, about two hundred Men in Arms, as said is, the said *Thomas* and *Simon Frasers* of *Beaufort*, and the other Persons above-complained upon, did encourage these Men, unlawfully conveened in Arms, as said is, by swearing, and causing them swear to join and concur for maintaining the saids *Thomas* and *Simon Fraser's* Pretences to the Estate of *Lovat*, against all Opposers. Likeas after the Rendezvous, the said *Thomas* and *Simon Frasers*, and others above complain'd upon, that had been at the Rendezvous, went into a Change-House near by, and there contriv'd and drew up the Letter subscribed by them, directed to the Lord *Fraser*: And of which Letter a Copy is hereto subjoyn'd ( the principle being put in the Clerk of Justiciaries hands ) and doth manifestly contain an unlawful League and Combination, for mutual Adherence in their wicked Designs, which League and Combination is the rather aggravated than palliated by any exception therein of the King and Government, as



being *protestatio contrario facto*. Likewise, the said Letter of Association doth also contain bold and wicked Threatnings against the Lord Saltoun, and false and undue Reflections and Insinuations against the Marquess of Athol and his Family. And this Letter being framed, and agreed to as said is, to be sent to the Lord Fraser, after his parting from the Banders and Leaguers, doth further declare their purpose to continue in the said unlawful Association, and to have the same recorded *ad futuram rei memoriam*. And the Letter was accordingly sent to the Lord Fraser, to his House of

The Lord Saltoun having gone North the next day, to visit the Lady Dowager of Lovat at her House of Castledownie, after he had stay'd there a few days, and as he was returning homeward with the Lord Mungo Murray, Son to the Marquess of Athol, and some other Gentlemen, by the way passing throw the Wood of Bonchrew, about four Miles from Castledownie, the said Lord Saltoun, Lord Mungo Murray, and their Company, were upon the sixth, or one or other of the days of October last, surpris'd by the said Captain Simon Fraser and his Father, who having convocat a great many Men in Arms, above fourscore, or a hundred, did place themselves in ambush, for way-laying and seizing the said Lord Saltoun, Lord Mungo Murray, and their Company. Whom they accordingly seized with great Violence and Barbarity, Disarming, Dismounting, throwing them down, and Beating them, with many Threatnings, to Murder them outright. And the said Thomas and Simon Frasers having, with their foresaid Company, (whereof several were Subscribers of the foresaid Letter of Association) taken Prisoners the Lord Saltoun, Lord Mungo Murray, and their Company, unable to resist so great a Force, they caused them to Mount on little pitiful Beasts, instead of their own Horses, whereof they had rob'd them, as also of their Arms, and other things about them, and thus carried them away Captives, under their Guards of Men and Arms, to the House of Fanellan, where they made them close Prisoners every one in a Room by himself, for the space of six or seven days, having in the mean time fortified and stuffed the House with Armed Men and other Provisions. And further, in prosecution of their wicked Band and League to rise in Arms, the said Thomas and Simon Frasers, and their Complices, sent the Firie Cross through the Countrey, to raise their Men and People in Arms; whereby they convey'd to the Number of two hundred Men in Arms, to assist and joyn with the said Frasers, and others above-complained upon, in their foresaid open and manifest Insurrection and Rebellion: In further prosecuting whereof, the said Thomas and Simon Frasers, and their Complices above-complained upon, did the same day that they made the Lord Saltoun, Lord Mungo Murray, and others their Prisoners, march with a Company of about one Hundred Men in Arms, to the Lady Lovat's House of Castledownie, and there, violently and wickedly seized upon the Widow Lady and her Servants, and made them Prisoners; and robbed and spoiled the Goods in and about the House, at their pleasure. And thus the said Thomas and Simon Frasers, and their Complices above-complained upon, having broken out into open Rebellion and Arms, and seized the foresaid two Houses with the Prisoners therein, they garisoned the same, and appointed Captains, and other Officers over their Troops and Garisons: And adding yet more Barbarity to all their Violence, they set up a Gallows before the House of Fanellan, and in the View of the Windows where the Prisoners were, threatening to hang them thereon. And by sending tee said Firie Cross as said is, they convocat and convey'd yet more Men in Arms, and after they had kept the said Prisoners, some six or seven days in the foresaid Captivity and Terrors, they carried them from Fanellan by armed Guards, to the Isle of Aigies, where they kept them Prisoners in



in a Creel House for their Lodging, and did treat them in a most miserable manner, so that the Lord *Saltoun* fell so sick, that they were obliged to dismiss him, but still keeping the Lord *Mango Marray* Prisoner for some days thereafter: And about the same time, they have the Lady Dowager of *Lovat* still their Prisoner in *Castledonzie*. And during their Imprisonment, the said *Thomas* and *Simon Frasers*, and their Complices above-complain'd upon, propone Conditions, extort Articles and Agreements, and whatever they pleased to demand, there being no resisting such a wicked and barbarous Force, which continually proceeded to greater Violence and Barbarity. For not only the said *Thomas* and *Simon Frasers* and their said Complices, refused to lay down their Arms, and desist from their Violence, when commanded and charged by the Sheriff of *Inverness*; But going on in their Villainous Barbarities, they kept the said Lady Dowager, in most miserable Captivity. And when nothing that she could propose or promise would satisfy them, the said Captain *Simon* takes up the most Mad and Villainous Resolution that ever was heard of: For all in a sudden, he and his saids Complices makes the Lady closs Prisoner in her Chamber, under his armed Guards; And then comes upon her, with Mr. *Robert Monro* Minister at *Abertarfe*, and three or four Ruffians in the Night time, about two or three in the Morning in the Month of *October* last, or one or other of the days of the said Month of *October* last: And having dragged out her Maids, *Agnes Mackbrayer*, and *Frazer*, he proposes to the Lady, that she should Marry him. And when she fell in Lamenting and Crying, the great Pipe was blown up, to drown her cryes, and the wicked Villains order the Minister to proceed. And tho she protested with Tears and Cries, and also offered all promises of any thing else, and declared she would sacrifice her Life, sooner then consent to their Proposal, nevertheless the said Minister proceeds, and declares them Married Persons: And *Hugh Frazer* of *Kinmonavie*, and the said *Hutcheon Oig*, (both of them Thieves and Murtherers) are appointed for her waiting Maids. And tho she often swarfed and again cryed out most grievously, yet not relenting, but the Bag-pipe is blown up as formerly, and the foresaid Ruffians rent off her Cloaths, cutting her Stays with their Durks, and so thrust her into her Bed. After this most horrid violent Rapt, when the Ladies Friends offered to make some Attempt, for her Rescue out of Captain *Simon's* hands, the said Captain *Simon*, and his said Complices, carry her away to the Hills, and raising the Countrey, to the number of four or five hundred Men in Arms, of their own Name and Dependens, did detain still the afflicted Lady, and did stand to their own Defence. And further, when the Lords of our Privy Council, having Intelligence of this Violence and Insurrection in Arms, and of the foresaid wicked Practices and Rebellion of the said *Frasers*, and others above complained upon, did order an Herauld to charge the said Traitors and Rebels, to lay down their Arms, and set the Lady at Liberty, and render themselves Prisoners, to abide the Law: And did also order the Sheriff, with the *Passé Comitatus*, as likewise our Troops and Forces to march against them, and subdue them. Yet the foresaids *Thomas* and *Simon Frasers*, and their saids Complices, disobeyed the said Charge, and in manifest Contempt thereof, continued in Arms and Rebellion for a considerable time after they were so charged, and detained the said Lady Prisoner for several days thereafter. By all which it is evident, that the whole foresaids Persons, and each of them *Respective*, are guilty as Actors, at least as airt and part, of the Crimes of Treason and open Rebellion, convocating and convening in Arms, unlawful Banding and Leaguings, Robbery, Ravishment, and the other Violences and Crimes above-mentioned, or of one or other of them. As also, the said Mr. *Robert Monro* Minister, is guilty of celebrating a *Clandestine*



fine Marriage: Which being found by the Knowledge of an Inquest, they ought to be punished by Confiscation of Life, Lands, Honours, and Goods, and other pains of Law, to the Example and Terror of others to commit the like in time coming.

*Follows the just Double of the Second Lybel or Inditement against the Frasers.*

**T**Hat where, by the Laws of this, and all other well governed Realms, the Crimes of Treason and Rebellion, and open Insurrection in Arms, as likewise of unlawful Leagues and Combinations, and the Convocating or Conveining of our Subjects in Arms, without the Warrant of our Authority, and the Occupying, Possessing, Stuffing, and Fortifying of Houses, and Fortifying of Houses and Forts with Armed Men, and other Provisions: As also the way-laying, seizing, apprehending, and making free Subjects Prisoners, and detaining them by Violence in Bondage and Captivity, and treating them with all hardships, are punishable with Confiscation of Life, Lands and Goods: Likewise by the Act of Parliament, *Ja. 1st. Par. 1st. Cap. 3d.* It is Statute, That no Man openly Rebel against us, under the Pain of Forfeiture of Life and Goods: And by the Act of Parliament *Ja. 2d. Par. 6th. Cap. 24th.* It is Statute, That who commits Treason against our Person and Majesty, rises in Feir of War against us, refets and supplies such as have committed Treason, or Stuffs their Houses and holds them against us, or Stuffs Houses of their own in Furtherance of Rebels, shall be punished as Traitors. And by the Act of Parliament Queen *Mary, Par. 9th. Cap. 75.* It is Statute, That none attempt to do or raise any Bands of Men of War, upon Horse or Foot, with Culverings, Pistols, Picks, Spears, or other Munition Bellical, without special License in Writ of her Majesty and her Successors, under the Pain of Death to be execute upon the Raisers of the saids Bands, as also upon them that rises and conveens in Bands. And by the Act, *Ja. 6th. Par. 8th. Cap. 131.* It is Statute, That none of our Subjects presume to Convocat, Conveen or Assemble for holding of Councils, to treat, consult, or determine in any Matter of State, Civil or Ecclesiastick, except in the ordinary Judgements, without our special Command or expresse License, under the Pains made against such as unlawfully Convocats our Leiges: And by another Act, *Ja. 6th. Par. 10th. Cap. 12th.* It is Statute, That no Leagues or Bands be made amongst our Subjects of any Degree, without our Privy and Consent, under the Pain to be holden and execute as Movers of Sedition to the Breach of the Peace. Which two last Acts are ratified, *Ch. 2d. Par. 1st. Cap. 4th.* And by the Act, *Ch. 2d. Par. 1st. Cap. 5.* It is Declared, That it is, and shall be High Treason to the Subjects of this Kingdom, or any number of them, more or less, upon any Ground or pretext whatsoever, to rise and continue in Arms, to maintain any Forts, strengths or Garrisons, or to make any Treaties or Leagues with Forreigners, or amongst themselves, without our special Authority and Approbation first had and obtained thereto. And by the Act, *Ch. 2d. Par. 1st. Sef. 2d. Cap. 2d.* It is statute and declared, That to plot, contrive, or intend to levy War, or to take up arms against us, or any Commissionat by us, is punishable as high Treason. Likeas, by the Act, *Ch. 2d. Par. 2d. Cap. 11th.* It is statute, That in time coming, in all Cases of Treasonable rising in Arms, and open and manifest Rebellion against us and our Authority, our Advocat for the time, may, and ought to insist, and prosecute such Persons, as he shall be ordered by us, and our Privy Council to pursue. And if they be cited, and do not appear, the Justices notwithstanding of their Absence, may, and



and ought to proceed to consider, and give Interlocutor upon the Libel : And if it be found relevant, admit the same to the knowledge of an Assize, and upon their Verdict, finding the same to be proven, the Doom and Sentence of Forfeiture ought to proceed, and be given in the same manner, as if the Persons accused had compeared, and were present. Which raising, convocating, and convening in Arms, without, or against our Authority, with the other Crimes foresaid, are highly aggravated, and the Treason and Rebellion becomes yet more wicked and atrocious, when they are perpetrated by Persons under Process for former Treasons, and other capital and wicked Crimes, and after having been Charged in our Name by our Officers, or by a Herald thereto warranted, to lay down their Arms, and render their Persons to abide the Law, under the pain of Rebellion. Likeas, to attempt to seize, and actually seize, and keep back by force and Violence, Persons cited, and under Bail, to appear before the Court of Justiciary, or any other Court or Judicature, to bear Witness, and give evidence, or for any other Cause or effect. As also, to extort by Force and Violence, Bonds, Declarations, or any other Write or Paper from any one of our free Leiges, are likewise Crimes of a high nature, and ought to be severely punished. **NEVERTHELESS**, it is of verity, That the said *Thomas* and *Simon Frasers*, and the whole other persons above complained upon, shaking off all fear of God, and regard to our Laws and Authority, are guilty, airt and part, of the Crimes above, and after mentioned. In so far as the said Captain *Simon Fraser* and his Complices above named, being either already under a Process of Treason, or designing to frustrate the foresaid Process raised against others of their Accomplices, did upon the occasion that certain persons Witnesses, were to come, or be brought from *Stratherick*, and the bounds adjacent thereto, within the Shire of *Inverness*, for to give evidence in the said Process anent the Crimes of Treason, and others therein libelled, wickedly add to all their former rebellions, and wicked horrid Crimes, their convocating and convening in Arms of Men, to the Number of Two or Three hundred Men less or more ; who appearing in an open Insurrection, and manifest Rebellion in Arms, did upon the fifteenth of *June* last bypast, the sixteenth, seventeenth, and eighteenth, or one or other of the days of the said Month, March in feir of War, and open Hostility, against certain of our loyal Subjects, convened by our Authority : And for furthering of Justice within the foresaid bounds of *Stratherick*, and others within the Shire of *Inverness*, and their invading and incompassing, threatening and over-mastering them, did seize upon their Persons, and make them Prisoners, and violently kepted back such as were either cited, or under Bail, to appear and give Evidence and Witness in the Process above-mentioned. As also, they extorted from our free Lieges, certain Bonds, Declarations and Writs, according to their own wicked Imaginations and Purposes: Likeas, that they might raise and promote their foresaid manifest Insurrection and Rebellion, they sent the fiery Cross through the Country (a sign and symbol used amongst them, to gather their Complices in Arms) for making Insurrection and rebellions, and other unlawful Convocations : As also, they did place a Garison in *John Frasers* House of *Meiklegart* in *Stratherick*, and in a word, have committed most manifest Treason and Rebellion by open rising in Arms against our Laws and Authority, and using Hostilities and Violences upon our good Subjects. By all which it is manifest, That the foresaid persons complained upon, or one or other of them, are guilty of the Crimes of open and manifest Rebellion in Arms, Treason, unlawful Convocations, Violent Imprisonment, and the hail other Crimes above libelled : Which being found by the knowledge of an Inquest, they ought to be con-



condignly punished by the Forfeiture of Life, Lands, Honour, and Goods; to the Example and Terror of others to commit the like in time coming.

This being the Libels and Inditements raised and pursued by his Majesty's Advocat, against the forenamed Persons, and the Criminal Letters, containing the same, with the Execution thereof by Purservants and Heraulds, with Coats of Arms displayed, and sound of Trumpet, and other Solemnities appointed by Act of Parliament, having been duely returned to the Clerk of the foresaid Court of Justiciary, at the Days and Diets thereof: His Majesties Advocat, after the Court was senced, and that he had first given in the Order and Warrant of the Lords of his Majesty's Privy Council, for his pursuing of the foresaid Process of Treason, produced the criminal Letters of Treason duely execute; and the Purservant who execute the Letters, with his Witnesses being solemnly sworn, and having made faith upon the Truth of the Executions, his Majesty's Advocat declared, that the persons summoned, against whom he intended to insist, being absent, and not compearing, to underly the Law, he did insist against the persons after named, in order to their Forfeiture in absence, viz. Captain *Simon Fraser*, eldest lawful Son to *Thomas Fraser* of *Beaufort*, *William Fraser* of *Foyr*, *Hugh Fraser* in *Kinnonavie*, *William Fraser* in *Dulleraig*, *William Fraser* of *Erechit*, *Alexander Fraser* of *Kilduthil* younger, *Hugh Fraser*, alias *Huiston Oig* in *Leathclune*, *Alexander Fraser* in *Ruthven*, *John Fraser* his Brother, *Alexander Fraser*, Son to *Farralin*, *Alexander Fraser* Son to *Meggivie*, *Tais Fraser* Brother to *Litlegarth*, *Thomas Huiston* Son to the Minister of *Stratherick*, *Aeneas McBaine* Brother to *Drummond McBaine*, *Hugh Fraser* Son to *Struie*, *Hugh Fraser* younger of *Bochrubine*, *John Fraser*, Brother to old *Kilduthill*, Major *Thomas Fraser* Elder of *Struie*, *Hugh Fraser*, Brother to *Erechit*, and *John Fraser* younger of *Meggivie*. Whereupon the Lords of Justiciary, having with consent of his Majesty's Advocat, deferred the Diet as to certain other persons contained in the Inditement, and his Majesty's Advocat, having restricted the Libels against Captain *Simon Fraser*, and the other persons insisted against, to their Treasonable rising in Arms, and open Rebellion against his Majesty, in the terms of the Act of Parliament 1669, which in the case of these Crimes, allows and ordains Process of Treason to proceed before the Lords of Justiciary, against the persons thereof accused, tho absent, with all the Aggravations libelled, or aggravating the said Treason and Rebellion. The Lords Commissioners of Justiciary, after consideration of the saids Libels, and as restricted in manner foresaid, found the said Libel so restricted, relevant, to infer the pains of Treason, and remitted the same to the knowledge of the Assise.

And the Assise consisting of fifteen Persons, being called and chosen out of the forty five Persons that had been named and given out in a List with the Libel and Criminal Letters, that the Defenders might see and object (if they had any Exception against them) And no objection being moved against them, they were all lawfully sworn.

And then his Majesty's Advocat produced for Probation the Letters above-mentioned in the Libel, directed by the Lords of his Majesty's Privy Council against the said Captain *Simon Fraser* and his Complices, charging them to lay down their Arms, render up the houses by them stuffed and fortified, and to submit themselves, and enter their persons in Prison, in the Tolbooth of *Inverness*, to underly and abide the Law, within the space of Forty Eight Hours, under the pain of Treason and Rebellion, and denouncing them as such to the Florn. And also (in case of their Disobedience) commanding the Sheriff of *Inverness*, and all other his Majesty's Officers, and good Subjects, to rise, concur, and act in Arms



Arms in feir of War, for reducing the said Rebels and Traitors to Obedience, and to apprehend and bring them to underly the Law, as the saids Letters more fully bear, together with the Execution of the saids Letters, whereby it appeared, That the foresaid Defenders were both lawfully charged upon the day of

And for their Disobedience and Contempt, duly denounced, and put to the Horn upon the said Month of thereafter. And for the more Verification of the said Charge and Execution, his Majesty's Advocat did further adduce the Pursivant who execute the same, with the Witnesses to the Executions, who being all solemnly sworn, made Faith upon the Truth thereof in all Points.

But here it is to be observed, That albeir the foresaid Letters were directed by the Lords of his Majesty's privy Council for charging the saids Defenders to lay down their Arms, &c. And in case of their Disobedience for denouncing them Rebels, and commanding the Sheriff of the Shire, and all others his Majesty's Officers, and good Subjects, to march against them as such: And that the foresaid Letters and Executions were also made use of by his Majesties Advocat for a further Evidence of the Defenders Treasonable rising in Arms in open Rebellion, in regard of their obstinate continuing in Arms after they were thereby charged; yet that the Defenders might have all fair Justice, and that no pretext might be left them to alledge, that it was incongruous and unjust to proceed to try them for their Crimes in Judgement, for adducing probation against them, when in the mean time they stood legally debarred, and were rendered incapable to compare, as having been denounced Fugitives, and so deprived of *personam standi in iudicio*, care was taken before the day appointed for their Comparance, to take out other Letters by Deliverance of his Majesty's Council, for relaxing them from the Horn, and discharging their Out-Lawrie as Fugitives, that if they had pleaded to compare in Judgement, and defend, they might have done it as freely as any other of his Majesty's Lieges; but the persons insisted against, not comparing, his Majesty's Advocat went on with his Probation. And the principal points to be proven conform to Interlocutor, being their treasonable rising in Arms, and open Rebellion against his Majesty: He adduced in all Fourteen Witnesses, whereof Eleven Men and three Women. The Men, *Alexander Fraser of Balnear, Thomas Fraser of Gortilick, William Fraser of Kilbokie, Robert Spence in Suddie, Alexander Mackintosh in Groom, Mr. Leonard Robertson of Stralack, Mr. George Fraser, Sub-principal of the Colledge of Aberdeen, John Monroe late Servitor to Captain Simon Fraser, Alexander Stewart, Brother to Ulart, Peter Fraser Servant to Balnear, and William Oig Fraser Tenent to Balnear.*

Who being all Witnesses in this Case above Exception, and many of them Landed Men, did prove the Defenders their Treasonable rising in Arms, and open Rebellion, with the greatest Evidence that could be desired. For tho it was not to be expected, that Eleven Witnesses should depone uniformly against Twenty Persons, all engaged in a Treasonable Combination, and rising in Arms, consisting of several Steps, Convocations, Rebellions, Meetings, Actings in a Tract of Time, and in several places; yet, it is most clear and Apparent from the Testimonies lying in Process, and upon Record, That against every one of the Defenders, there were at least two or three Witnesses to prove their Accession; And furder, That as to the Principal and most atrocious Acts of their Treasonable Insurrection, There was an evident Concurrence of the greatest part of them all; In as much as the Witnesses being solemnly sworn, did make Faith, and give their Depositions upon the whole Points and Articles of both the Li-

bels,



bels, in reference to all these particulars, First, the Combination, Convocating, and convening in Arms, without any lawful Authority. 2. The violent seizing of the Prisoners. 3. The taking the House of *Fanellan*, and keeping the Prisoners under Guards therein. 4. The keeping Garisons and Guards upwards of a Hundred Men in the House of *Fanellan* and *Castledownie*. 5. The raising of the Country by sending the fire Cross, and making the Cry called the *Coronach* pass thorow it, the ordinary signal for raising the Country in Arms in these parts. 6. The mustering of men in Arms, under Commanders, and with Colours, sometimes above Two Hundred, and sometimes above Three Hundred. 7. The setting and keeping of Centinels and Guards, and detaching of Parties. 8. Their marching with their Prisoners under Armed Guards thorow the Country, to remote places. 9. And wherein, in effect the whole Defenders were engaged; Their continuing in Arms in seir of War, and an open hostile manner, sometimes above two hundred, after they were charged in his Majesty's Name, by warrant of the foresaid Letters directed by the Lords of Privy Council, to lay down their Arms under the pain of Rebellion. And, 10. and lastly, Their again convocating and convening in Arms, several Months after they had been charged to lay down their Arms, under the pain of Rebellion, as said is, to the Number of Two or Three Hundred, and marching against, and again seizing his Majesty's free Lieges, for acting for his Majesty's Authority, and making them Prisoners.

All which particulars, the several and manifest steps of a most Treasonable raising in Arms, and open Rebellion, having been proven, and for the greatest and most atrocious part against the whole Defenders. The Probation as to the principal point was concluded with the most full and satisfying evidence.

And as for the Aggravations, viz. The Injuries and Indignities done to his Majesty's free Lieges, and those persons of Honour and Quality, the making and treating them as Prisoners with all severity, the threatening them with Death, by setting up a Gallows in their View, before their Windows, when under close Restraint in several Chambers, their carrying them about under Guards as Prisoners, and detaining of them for several days, their most inhuman, cruel, and barbarous Usage of the Lady Dowager of *Levat*, and carrying her with them, in a most Afflicted captive Condition for several Weeks, thorow the most Barbarous and Mountainous places that can be imagined, and extorting from her, by the Extremities of Violence, such Writings and Declarations, as they were pleased to demand: All these Aggravations were also proven by the foresaid Witnesses, at least two of them to every particular, of which the following Testimonies are a positive proof, viz. *Alexander Frazer* younger of *Balnear*, aged Twenty One years, examined, purged and sworn, Depones, That he was present at *Fanellan*, when he saw the Lord *Mungo Murray* and the Lord *Saltoun* brought Prisoners there, and made close Prisoners there in several Rooms, with Centinels put on them, and that they were brought Prisoners there by Captain *Simon Frazer*, and that when they came to *Fanellan*, a House belonging to the Laird of *Kinaries*, the Doors were shut close, and they forced them up, and put a Garison of armed Men in the House. Depones, That he saw at *Fanellan*, about two or three days after the Lord *Saltoun*, *Esq.* was brought Prisoner, about two or three hundred Men in Arms under Captain *Frazer's* Command, and saw him muster them there, and that they had Arms, such as Guns, Swords, Pistols, Targes, &c. Depones, That about seven or eight days after the Lord *Saltoun* was made Prisoner, he was at *Castledownie*, where he saw the Lady *Levat*, and that he saw a number of armed Men within the House, and Centinels at the Gate, and that he saw Captain *Simon Frazer* about the same time there. Depones, He saw Centinels sitting on the Treshold of my  
Lady's



Lady's Chamber Door, and that they continued there for a Night, after which time, the Deponent went away. Depones, He saw Parties sent from *Fanellan* to *Castledounie* too and fro several times. Depones, That after the Lord *Saltoun* and Lord *Mungo Murray* were brought Prisoners to *Fanellan*, he saw a Gallows standing before the Windows, where the saids two Lords were kept closs Prisoners, which was not there the day they were brought Prisoners. Depones, That about nine or ten days after the Lord *Saltoun* and the Lord *Mungo Murray* were taken Prisoners, he did see one Night at *Castledounie*, Captain *Simon Fraser* and Mr. *Robert Monro* the Minister at *Castledounie*, and being desired by Captain *Leonard Robertson* of *Straloch*, to get him notice of my Lady's Condition, he went to my Lady's Chamber Door, and heard her Sighing and Moaning, and it was then about the Reik of Day, and that he heard the Pipes playing in the Dining Room next to my Lady's Chamber. The same Night he saw my Lady's two Women in another Room, with Centinels set upon them, and the two Women Weeping, and this was about Midnight he saw them. And this is the Truth, as he shall Answer to GOD. *Sic Subscribitur*, Al. Fraser. *Lothian*, I. P. D.

*Thomas Fraser* of *Gartulig*, aged Thirty Years, Married, Purged and Sworn, Depones, That about the beginning of *October*, Captain *Simon Fraser* and the Deponent coming from *Inverness*, and the Lord *Saltoun* and the Lord *Mungo Murray* from *Castledounie*, there having met them in the Wood of *Moncreive* some Armed Men, when they were met together, they did make up Thirty or Fourty Foot, beside Horses, all in Arms, where the Lord *Saltoun* and Lord *Mungo* being Riding peaceably, Captain *Simon* gave Orders to his Company, to take my Lord *Saltoun* either Dead or Alive, and accordingly came up closs to my Lord *Saltoun* and Lord *Mungo*, and assaulted them with Bended Pistols, and commanded them to render themselves Prisoners, My Lord *Saltoun* asking for what cause, he Answered, because it was his Pleasure. And the Deponent did see Captain *Simon*, and his Party, Dismounting and Disarming the Lord *Saltoun* and Lord *Mungo*, and all that were with them, and threatening them, the Foot having Guns presented and Dorks drawn, and the Horsemen's Pistols cocked, and thereafter they were set on Countrey Horse in stead of their own, with Guards in Arms surrounding them, and carried them in that Posture to *Fanellan*, where they were made closs Prisoners in several Rooms, and Centinels put upon the Rooms, and a Guard kept in the House, where they stay'd four or five Nights. Depones, That immediately thereafter, he heard the Firie Cross was sent through the Countrey, to convene the Men, and accordingly the next Night, there convened at *Fanellan* about three or four hundred Men with Guns, Swords and Pistols, and Pipers. And Depones, That they were all commanded by Captain *Simon*, and under him, by their several Under-Leaders. Depones, That there was a considerable Party sent from *Fanellan*, to my Lady *Lovats* House at *Castledounie*, and that Parties were from time to time relieved, and that there were Centinels put upon several Rooms of the House, and particularly upon my Lady's Chamber, and that he saw Captain *Simon* there, and that he was the Person that gave the Orders. Depones, That he saw the Lord *Saltoun* and Lord *Mungo* carried prisoners to the Isle of *Egry*, where they were kept Prisoners with a Guard of Fifty or Sixty Men in Arms. And this is the Truth, as he shall Answer to GOD. *Sic Subscribitur* T. Fraser. *Lothian*, I. P. D.

*William Fraser* of *Kilbokie*, Aged Fourty Years, Married, Purged and Sworn, Depones, That in *October* last, the Deponent came to the House of *Fanellan*, where Captain *Simon* was with two or three hundred Men all Armed, who had con-



conveened there upon a Firie Cross, which was sent by Captain Simon's Order through the Countrey, and it was the third day after the Lord Saltoun and Lord Mungo were taken Prisoners: And the Deponent saw them there, and Guards and Centinels upon them as Prisoners; And likewise saw a Gallows erected over against the Windows of their Chambers: And the Deponent having asked at Captain Simon, what that mean'd, he Answered, That it was to terrifie the Lord Saltoun and Lord Mungo. Depones, That he was present when the saids Lords were carried Prisoners from Fanellan to the Isle of Egies, where they were detained Prisoners by the said Captain Simon's Command. Depones, That before the Deponent went first to Fanellan, he was at Castledownie my Lady Lovat's Dwelling, where there was a Party of upwards of three or fourscore of Armed Men, and saw them keeping Guard at the Gates, and Captain Simon was there, and gave them Orders as Commander.

Robert Spence in Suddie, Aged Twenty Four Years, Married, Purged and Sworn, Depones, That Captain Simon Fraser having carried my Lady Lovat alongst with him from Kirkhill, and having heard, that there was a Party of Red-Coats, with Lord James Murray and some Gentlemen, coming to rescue my Lady, Captain Simon did send word through the Countrey, to raise the Firie Cross, to warn the Countrey to come for their Defence. Depones, That when my Lady left Captain Simon, there would have been about two or three hundred Men in Arms with him. And this is the Truth, as he shall Answer to God. *Sic Subscribitur*, Robert Spence. *Ad. Cockburn*, I. P. D.

Mr. George Fraser Sub-Principal of the Colledge of Aberdeen, Purged and Sworn, Depones, That when my Lord Saltoun, Lord Mungo Murray, and others were made Prisoners the time libelled, he was one of the Company, and that Captain Simon commanded the Party that apprehended them, which consisted of Fourteen Horse and Fifty Foot, or thereby, all armed with Swords, Pistols and Guns; and one of them called Hutcheon Oig came up with a Bended Pistol on my Lord Saltoun, and desired them to render, and dismounted them, and put them on little Horses, and carried them Prisoners to Fanellan, and kepted them there Prisoners under Guards by the space of six days, and that there was a Gallows put up, and there was a Convocation of Men in Arms, sometimes to the number of three or four hundred Men in Arms, with Colours displayed and Pipers playing. And this is the Truth, as he shall Answer to GOD. *Sic Subscribitur*, Geo. Fraser. *Lothian*, I. P. D.

And further, the Detestable and Horrid Violence done to the Lady Dowager by Captain Simon Fraser, and his wicked Complices, was yet more particularly and distinctly proven by Mr. Leonard Robertson of Straloch, and three Women, who no doubt, in a case so Circumstantial, were not only necessary, but most lawful sufficient Witnesses. But because this Violence was acted and perpetrated by the said Captain Simon, with such Cruelty and Barbarity, as is scarce Credible, the sum of the Evidence given in this Matter, is here more particularly set down as follows.

Mr. Leonard Robertson of Straloch, Aged 44. *solutus*, purged and Sworn, Depones That upon the sixteenth of October last, being Saturday, he came to Inverness, and was there informed, that the Lady Dowager of Lovat was under Restraint at Castledownie, whereupon he repaired to that place, and after some difficulty made, got Access to my Lady, who acquainted him with the Proposals that Captain Simon Fraser had made to her; and intreated the Deponent to perswade the Lord Saltoun, and her Brother Lord James Marjory, to condescend to the Terms; which



which the Deponent undertook: And having returned to *Inverness*, prevailed with them to sign the Articles, for her own, and Lord *Mungo's* Liberation, and brought them back to *Castledounie* on *Tuesday*, to get my Lady's hand to them. Which being done, the Deponent expected nothing, but that my Lady was fully at liberty. But when he was conveying her to her Horse, they were both stopped at my Lady's Chamber Door, and there was a Chair and a Centry set at my Lady's Door, and all therest of the Centries doubled; and the Deponent himself, after some time, was put under a Guard of Centinels, and was so detained under Restraint, till the next day at ten of the Clock; That complaining to Captain *Simon*, the Deponent was permitted to pay a Visit to my Lady, whom he saw in a very disconsolat Condition, and softly spoke in his Ear, *For Christs sake take me out of this place either dead or alive*, and that he observed my Ladies Face all swollen, and she fell in a Sownd the time the Deponent was with her; and the Lady suspecting that he had not fully heard what she had spoken to him, sent her Servant Mrs. *Mackbryar* with Commission to repeat the same words to him, which she did. And the Deponent thinks Captain *Simon* had at least Three Hundred Men with him at that time, all well armed, in, and about the House of *Castledounie*, and that he heard at the time some person lamenting, and the Bag-pipe played about the same time, but knows not whether it was to drown the Voice, or not. And furdur depones, That the next time he saw my Lady, was, That the Laird of *Collodine*, and the Deponent came to the Water side, near the Isle of *Aigas*; and Captain *Simon* having come over to them by Boat, the Deponent desired to see my Lady, which he shun'd, telling him, That my Lady did not desire to see him; and the Deponent replied, That it was not done like a Comerad; especially seing it was reported at *Inverness*, That my Lady was dead, or near expiring. Captain *Simon* answered, That he should be soon cleared of the contrary; and returning in his Boat, he caused bring out my Lady in their sight: But so weak, as she was supported by two, and then carried her back again to a little House upon that Island: But the Deponent having asked at Mrs. *Mackbryar* from the other side of the Water, to try at her Lady, if she had discharged the Deponent to see her; she went accordingly, and brought back word, That she desired nothing more than to see the Deponent, except her own Liberation, and to tell her Brother Lord *James*, that she was some better, and lived longer than she desired; And that the Deponent saw my Lady several times after that, where she made heavie Complaints of the bad and rude usage she had met with; but her Guards, and others suspecting the Deponent, because he would not comply anent some Papers, they were drawing up for their own pretended Security, he had not that free converse which he had formerly; and that this was the third or fourth Night after the Charge given them by the Herauld, to dissipat and lay down their Arms, and set my Lady at liberty. And at the time when my Lady parted with them, and went away with my Lord *Forbes*, the Deponent saw about two hundred Men in Arms with Captain *Simon Fraser*. Sic  
Subscribitur Leonard Robertson.

*Amilie Riob*, late Servitrix to Lady *Lovat*, aged 16 years, sworn and purged, depones, That about the time libelled, she being a Servant to my Lady, Captain *Simon Fraser*, with several Armed Men, came to *Castledounie*, and set Centinels on my Lady's Chamber without, and within the Doors, with drawn Swords; That Captain *Simons* Men carried by force my Lady's waiting Maids, Mrs. *Mackbryar*, Mrs. *Janet Fraser*, and the Deponent out of her Room, and made them Prisoners in another Room, That about two of the Clock in the Morning, two armed  
D Men



Men came, and carried the Deponent back to the Lady's Chamber, where she did see the Lady sitting on the Ground, her Hair hanging down about her Head, leaning backward upon the Bed-stock; That one *Donald Beaton* was pulling off my Lady's Shoes, and Captain *Simon* was holding *Aquavitæ* and burnt Feathers to her Nose, because she was then in a swarf; that thereafter they commanding the Deponent to take off my Lady's Shoes, and when she offered to to do, my Lady spurned her away with her feet, shewing her unwillingness; That the Deponent refusing to take off her Cloaths, Captain *Simon* ordered to beat her; that *Frazer of Kinmonavie* did then hold up the Lady in his Arms, and Captain *Simon* pulled off her Petticoats, and sought a Knife from *Hugh Monro* to cut her Stays; and because he had none, the Captain ordered *Frazer of Kinmonavie* to cutt her Stays with his Durk; and then they threw the Lady upon the Bed: But the Deponent saying that she would take off the Lady's Stays, they went a little out of the Room, in which time the Deponent did again fasten the Stays; but they returning, were displeased, that the Stays were not taken off, and commanded to put the Deponent out of the Room; and then they turned the Lady upon her Face, and stretched out her Arms, and so took off her Stays, which the Deponent did see, because she went not out of the Room, but stood at the foot of the Bed. And when the Deponent was going away, she heard my Lady cry, but the Bag-pipe did play all the time in the next Room to my Lady's Chamber, that her Cries might not be heard. Depones, That next Morning she went into the Lady's Chamber, and see her head hang over the Bed, and nothing upon it, except a Handkerchief; the Deponent did see all the Lady's Face swollen, and she spoke nothing, but gave her a broad look. And the Deponent thought that my Lady was not sensible for a day or two thereafter; for she did not know Lord *Mungo* her Brother the next Morning, when he came to see her, and when her Servant told her, here is your Brother at the Bed side, the Lady asked, what Brother, albeit she was looking him in the Face with fair Day-light. Depones, That when she and the other Servants were carried by force the first Night, out of my Lady's Chamber; the Lady stood up, and held out her Arms, and cryed: And when *Dumballocks* Lady came the next Morning to the Room, and called her Madam; my Lady answered. *Call me not Madam, but the most miserable wretch alive.* Depones, That she see my Lady carried Prisoner from *Castledownie* to the Isle of *Aigis* at twelve of the Clock at Night, and from that to *Culgrain*, and from that to *Deanie*, and then to the Isle of *Mullie*. The Reason of her Knowledge, because she went along with her.

This Deposition was the more credited, That the Maid, tho young, not above sixteen years, did nevertheless, in the presence of the Court, and Hundreds attending it, depone with a firmness and constancy, particularly observed by all that heard her, and her foresaid Deposition was immediatly confirmed by *Janet Frazer*, Daughter to *Dumballoch*, who agreed in her Deposition with *Amilie Reoch*, as to the Violence put upon the Lady, and her being carried forcibly from her, and as to the sad and afflicted Condition, wherein she see her the next day.

*Janet Frazer*, Daughter to *Dumballoch*, aged 16 years, unmarried, sworn and purged, depones, That at the time libelled, Cap'tain *Simon Frazer*, and several armed Men, came to the House of *Castledownie*; and thereafter there being Guards and Centries set on my Lady's Chamber-door, the Deponent and Mrs. *Mackbryar* being my Lady *Lovats* Servants, were about Twelve of the Clock at Night, carried by force out of my Lady's Chamber, and my Lady taking hold of the Deponents Cloaths, and crying out when the Deponent was pulled away by



by Force, my Lady fell on her Face. Depones, That next Morning the Deponent came to my Lady's Chamber, about Eight a Clock in the Morning, and did see my Lady's Head hanging over the Bed-Stock, and see her Face swollen. And the Deponent enquiring anent my Lady's Health, my Lady answered, *I am Dead.* And about Twelve a Clock that day, my Lady appeared altogether unsensible, and did take the Deponent for Lady *Catharine* my Lady's Sister, who had died several Years before, and about Four a Clock the same Afternoon, my Lady did not know her Brother my Lord *Mungo*, and could not speak to him. Depones, that about Two a Clock the same day, my Lady fell in a Swerf and continued out and in the Swerf about two Hours. And this is the Truth, as she shall answer to God. And Depones she cannot Write.

Likeas *Christian Macklain*, late Servitrix to *James Frazer* of *Relict*, did likewise in her Deposition agree with them.

*Christian Macklain*, late Servitrix to *James Frazer* of *Relict*, Aged 24 Years; un-married, Purged, and Sworn, and Interrogat by the *Aberuchil*, and Mr. *Thomas Frazer* Sworn Interpreter, in respect she cannot Speak the *English* Language, Depones, That the time Lybelled, particularly that Night that they talk of the pretended sham Marriage, she being a Servant in the Family, had the Charge of a young Child, being in the next Room to my Lady's, and the Door of my Lady's Room, and the Room where the Deponent was being open, and the Doors Guarded by Armed Men, she heard my Lady Moan and Lament; In the mean there were Bag-pipes playing, and yet she heard my Ladies Voice so loud, that the Sound of the Bag-pipe did not drown her Voice. Depones, That she saw *Kinnonachie* drawing a Durk from one of the Centries that was at the Room where the Deponent was, and rush into the Room where the Lady was with it. Depones, That the Deponent was Guarded so strictly, that she could get neither Meat nor Drink for her self nor the Child, nor none allowed to come near her from Twelve a Clock of the Day, to Eight a Clock next Morning. Depones, she saw Captain *Simon Frazer* there, with the most part of the other Persons insisted against, all in Arms, and saw a great many more People in Arms, in and about the House. Further Depones, That before the Pipes were bended up, she heard my Lady crying and clap her hands, saying, *Is there no Person that hath any Christian Blood in them, who will have no respect to my Woes,* and repeated very often, *Lord have Mercy on her Soul.* This is the Truth, as she shall Answer to GOD. And Depones she cannot Write. *Sic Subscribitur, Thomas Frazer.*

All which Depositions, as to the Centries set within, and without the Lady's Chamber, and the Violence then done her, and the playing of the Bag-Pipe to suppress her Cryes, and the carrying of her Captive from Place, to Place, were further confirmed by what the foresaid Men Witnesses did Declare in their several Depositions as to these Points.

His Majesty's Advocat did also produce, and lay before the Assise, the principal Letters mentioned in the first Libel, Write by *Beaufort Elder* and Younger and their Complices, for Declaring their wicked Conspiracy and Combination, and which Letter was also Attested by several of the Witnesses.

From all which it is most manifest, That the Defenders their Treasonable Rising in Arms and open Rebellion against his Majesty, and the Aggravations above-libelled, were fully and clearly Proven: And accordingly the Assise did return their Verdict, bearing, That they all in one Voice did find the Libel, with the Aggravations thereof, as the same was restricted by the Interlocutor of the  
Lords



Lords, clearly proven against the said Captain *Simon Fraser*, and the other Persons insisted against in absence, as said is.

After opening and reading of which Verdict of Assise, the Lords Justice General, Justice Clerk, and Commissioners of Justiciary, in respect thereof, Decerned and Adjudged the said Captain *Simon Fraser*, and the whole Persons contained in the above-written Verdict, to be Execute to the Death, Demeaned as Traitors, and to undergo the Pains of Treason, and utter Punishment, appointed by the Laws of the Realm, at such Times and Places, and in such Manner, as the saids Lords should appoint: And ordain their Name, Fame, Memory and Honours to be extinct, and their Arms to be riven forth, and delete out of the Books of Arms; so that their Posterity may never have Place, nor be able hereafter to Bruik or Joice any Honours, Offices, Titles, or Dignities, within the Realm in time coming: And to have Forfeited, Amitted, and Tint, all and sundry their Lands, Heretages, Tacks, Steedings, Rooms, Possessions, Goods and Gear whatsoever pertaining to them, to our Sovereign Lord, to remain perpetually with his Majesty in Property. And this Sentence was by Sound of Trumpet, and all other Solemnities, given for Doom.

For Conclusion then of this Account, it remains only to be remarked, *First*, That both the Lybels are so evidently relevant, and the Probation so full and clear, that there cannot remain the least Scruple or Doubt, as to the orderly Procedure, and just Issue of this Tryal.

It may possibly occur, that all the foresaid Convocations, Meetings and Actings in Arms, were only upon the Occasion of a pretended privat Quarrel, and not designed against His Majesty and his Government. And further, that the foresaid Persons found guilty, did several times openly declare, That from all their Bonds and Engagements to maintain and stand by one another, the King was expressly excepted. But to this it may be Answered, that the Duty and Crimes of Subjects are to be measured and judged by Deeds, and not by Words. That the Words of the Law are most express, And it shall be high Treason to the Subjects of this Kingdom, or any Number of them, more or less, upon any Ground or Pretext whatsoever, to rise and continue in Arms, to maintain Forts or Garisons, to make Peace or War, to make Treaties and Leagues with Foreigners, or amongst themselves, without his Majesty's special Authority and Approbation first interponed thereto. That there is nothing more easy and ordinary for Men, than to colour their Treasonable Rising in Arms, with specious Pretences and Excuses. And *Lastly*, That it is most certain, That as the foresaid Criminals, and their Complices, did disobey and contemn His Majesty's Authority, charging them to lay down their Arms under the Pain of Rebellion, so had they been able to have opposed and overthrown the whole Forces and Strength of the Government, they had certainly done it, in the Prosecution of their Wicked Designs.

It may likewise appear strange to some, to hear and see so many Forfeited upon this Occasion. But these Persons ought first to consider, that the Persons found guilty, were the Chief Ring-leaders in all the Steps of the foresaid Rebellion, and Barbarous Outrages, and who forced others to take Arms.

As also they ought to reflect, that several Hundreds whom the Law reaches, are nevertheless past by and over-look'd, and the foresaid Persons only insisted against, as necessary Examples to restrain such Lawless and Pernicious Practices; And that tho the foresaid twenty Persons be condemned, for the Indispensible Maintaining of His Majesty's just Authority, and Repressing and Curbing the Madness of such Heady Desperat Traitors: Yet the Estate and Interest of all of them  
taken



taken complexly, are not worth Fifty Pound *Sterling* by Year; nor are they in the least valuable as to the Peace of the Kingdom, it being known, that the greatest part of them were Thieves and Murderers, and so glad of any pretence to continue their Lawless Practices, and keep themselves out of the Hands of Justice.

Some few Moneths after the foresaid Tryal, the saids *Hugh Frazer* alias *Hutcheon Oig*, and *John Frazer* younger of *Migavie*, two of the Convict Persons above-named, being apprehended in the North, were sent Prisoners, under a Guard of his Majesty's Forces, to the Tolbooth of *Edinburgh*: And being called upon the 11th of *April* last before the Lords of Justiciary, and Interrogat, if they did bear the Names and Designations above-written, and if they knew any others of these Names and Designations, they acknowledged their Names to be as above, viz. *Hugh Frazer*, alias *Hutcheon Oig*, and *John Frazer* younger of *Migavie*, and that they knew of no other Persons of their Names and Designations, which Judicial Acknowledgment they Signed.

The said *Hugh Frazer*, alias *Hutcheon Oig*, and the said *John Frazer* younger of *Migavie*, by the former Sentence, being ordained to undergo the Pains of Treason, appointed by the Laws of this Kingdom, at such Times, Places, and in such Manner, as the Lords of Justiciary should appoint, in respect they were then absent: And they being now brought before the Lords, to hear the time, Place, and Manner of the Execution appointed, the Lords of Justiciary Decerned and adjudged the said *Hugh* and *John Frasers* to be taken to the Cross of *Edinburgh*, upon the fourth of *August* thereafter, betwixt two and four a Clock in the Afternoon, and there to have their Heads severed from their Bodies.

It being certain, that there is a Remission under his Majesty's Royal Hand, which is appointed to pass the great Seal *per Saltum*: It is thought necessary to publish some Paragraphs of two of his Letters, containing dangerous Insinuations against his Majesty, and most Villainous Expressions concerning the late Queen of Blessed Memory, for satisfying all his Majesty's loving Subjects, how unworthy the said Captain *Frazer* is of his Majesty's Pardon; The true Copy of the saids Paragraphs, whereof the Principals are ready to be produced, is hereto subjoined.

*Beaufort 12 January 1695.*

Tell Sir *Robert*, That I hope he'll pledge me a Bumper that I am drinking to  
Q. M. Dredgie.

*Sic subscribitur*, Sim. Frazer.

Direct to *Thomas Frazer*.

A Paragraph of another Letter.

*Beaufort 12 January 1695.*

I doubt not you will be in mourning for Queen *Mary*, but I am resolved to buy none till K. W. die, which perhaps may serve for the next Summer Sute; and I hope you will give me a Hat and Gloves for it.

*Sic subscribitur*, Simon Frazer.